



## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-552-801]

#### **Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Preliminary Results of the Antidumping Duty Administrative Review, Preliminary Determination of No Shipments, and Partial Rescission of the Antidumping Duty Administrative Review; 2018-2019**

**AGENCY:** Enforcement and Compliance, International Trade Administration, Department of Commerce.

**SUMMARY:** The Department of Commerce (Commerce) preliminarily determines that certain producers and exporters of frozen fish fillets (fish fillets) from the Socialist Republic of Vietnam (Vietnam) made sales of subject merchandise at prices below normal value (NV) during the period of review (POR) August 1, 2018 through July 31, 2019. We also preliminarily determine that two companies are eligible for separate rate status, 27 companies did not establish eligibility for a separate rate and are part of the Vietnam-wide entity, and 21 companies had no shipments during the POR. Finally, we are rescinding this review with respect to 16 companies. We invite interested parties to comment on these preliminary results.

**DATES:** Applicable [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

**FOR FURTHER INFORMATION CONTACT:** Javier Barrientos, AD/CVD Operations, Office V, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington DC 20230; telephone: (202) 482-2243.

## SUPPLEMENTARY INFORMATION:

### *Background*

On October 7, 2019, Commerce published in the *Federal Register* the notice of initiation of an administrative review of the antidumping duty (AD) order on fish fillets from Vietnam with respect to 76 companies.<sup>1</sup> We selected the largest exporters, Bien Dong Seafood Co., Ltd. (Bien Dong) and Vinh Hoan Corporation (Vinh Hoan),<sup>2</sup> as mandatory respondents.<sup>3</sup> Following the withdrawal of all review requests for Bien Dong,<sup>4</sup> Commerce selected Seafood Joint Stock Company No.4 Branch Dongtam Fisheries Processing Company (DOTASEAFOOD) as an additional mandatory respondent on January 22, 2020.<sup>5</sup>

### *Scope of the Order*

The products covered by this order are fish fillets from Vietnam. For a full description of the scope of the order, *see* the Preliminary Decision Memorandum.<sup>6</sup>

### *Partial Rescission of Administrative Review*

Pursuant to 19 CFR 351.213(d)(1), Commerce will rescind an administrative review, in whole or in part, if the party that requested a review withdraws the request within 90 days of the date of publication of the notice of initiation. As noted above, all interested parties timely withdrew their requests for review for 16 companies. Accordingly, Commerce is rescinding this review with respect to these 16 entities, in accordance with 19 CFR 351.213(d)(1).<sup>7</sup> The review will continue with respect to the other firms for which a review was requested and initiated.

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<sup>1</sup> See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 84 FR 53411 (October 7, 2019).

<sup>2</sup> Vinh Hoan, Van Duc Food Export Joint Stock Company, and Van Duc Tien Giang Food Export Company have previously been treated as a single entity. See *Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Notice of Preliminary Results and Partial Rescission of the Sixth Antidumping Duty Administrative Review and Sixth New Shipper Review*, 75 FR 56062 (September 15, 2010), unchanged in *Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Final Results of the Sixth Antidumping Duty Administrative Review and Sixth New Shipper Review*, 76 FR 15941 (March 22, 2011). We refer to the companies, collectively, as Vinh Hoan.

<sup>3</sup> See Memorandum, “Selection of Respondents for Individual Review,” dated December 13, 2019.

<sup>4</sup> For a detailed history of the events following initiation of this review, *see* Memorandum, “Preliminary Results of Antidumping Duty Administrative Review: Certain Frozen Fish Fillets from the Socialist Republic of Vietnam; 2018-2019,” dated concurrently with this notice (Preliminary Decision Memorandum).

<sup>5</sup> See Memorandum, “Selection of Replacement Respondent for Individual Review,” dated January 22, 2020.

<sup>6</sup> See Preliminary Decision Memorandum.

<sup>7</sup> See Appendix II for a list of companies for which we are rescinding this review.

### *Preliminary Determination of No Shipments*

Based on an analysis of information from U.S. Customs and Border Protection (CBP) and the letters filed by 20 companies certifying no shipments, Commerce preliminarily determines that these companies had no shipments during the POR.<sup>8</sup> In addition, with regard to an additional company, HVG,<sup>9</sup> information on the record establishes that HVG had no shipments during the POR. For additional information regarding this finding, *see* the Preliminary Decision Memorandum.

Consistent with our assessment practice in non-market economy (NME) administrative reviews, Commerce is not rescinding this review for these 21 companies,<sup>10</sup> but intends to complete the review and issue appropriate instructions to CBP based on the final results of the review.<sup>11</sup>

### *Separate Rates*

Commerce preliminarily determines that information placed on the record by mandatory respondent, Vinh Hoan, and separate rate applicant, Nam Viet Corporation (NAVICO), demonstrates that these companies are entitled to separate rate status. The remaining 27 companies subject to this review have not established eligibility for a separate rate, and are, therefore, considered to be part of the Vietnam-wide entity for these preliminary results.<sup>12</sup> For additional information, *see* the Preliminary Decision Memorandum.

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<sup>8</sup> *See* Preliminary Decision Memorandum for a complete list of companies with no shipments during the POR.

<sup>9</sup> The collapsed entity includes: An Giang Fisheries Import and Export Joint Stock Company; Asia Pangasius Company Limited; Europe Joint Stock Company; Hung Vuong Ben Tre Seafood Processing Company Limited; Hung Vuong Joint Stock Company (aka Hung Vuong Corporation); Hung Vuong Mascato Company Limited; Hung Vuong—Sa Dec Co. Ltd.; and Hung Vuong—Vinh Long Co., Ltd. (collectively, HVG). *See Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Preliminary Results of the Antidumping Duty Administrative Review, Preliminary Determination of No Shipments and Partial Rescission of the Antidumping Duty Administrative Review; 2016–2017*, 83 FR 46479 (September 13, 2018), and accompanying Preliminary Decision Memorandum (PDM) at 4, unchanged in *Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Final Results, and Final Results of No Shipments of the Antidumping Duty Administrative Review; 2016–2017*, 84 FR 18007 (April 20, 2019).

<sup>10</sup> As noted above, HVG is a single entity consisting of eight companies.

<sup>11</sup> *See Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties*, 76 FR 65694, 65694–95 (October 24, 2011) and the “Assessment Rates” section, below.

<sup>12</sup> *See* Preliminary Decision Memorandum for a complete list of companies not eligible for a separate rate. We note that this includes DOTASEAFOOD, a mandatory respondent that failed to respond to Commerce’s request for information.

### *Vietnam-Wide Entity*

The Vietnam-wide entity will not be under review unless a party specifically requests, or Commerce self-initiates, a review of the entity. Because no party requested a review of the Vietnam-wide entity, the entity is not under review, and the entity's rate is not subject to change.<sup>13</sup>

Other than the companies discussed above – *i.e.*, those that received separate rate status, those with no shipments during the POR, or those for which all review requests were timely rescinded – Commerce considers all other companies for which a review was requested to be part of the Vietnam-wide entity. For additional information, *see* the Preliminary Decision Memorandum.

### *Methodology*

Commerce is conducting this review in accordance with sections 751(a)(1)(B) and 751(a)(2) of the Act. We have calculated constructed export prices in accordance with section 772 of the Act. Because Vietnam is an NME country within the meaning of section 771(18) of the Act, NV has been calculated in accordance with section 773(c) of the Act.

For a full description of the methodology underlying our conclusions, *see* the Preliminary Decision Memorandum. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <http://access.trade.gov>. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at <http://enforcement.trade.gov/frn/>. The signed Preliminary Decision Memorandum and the electronic version of the Preliminary Decision Memorandum are identical in content.<sup>14</sup>

### *Preliminary Results of Review*

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<sup>13</sup> *Id.*

<sup>14</sup> A list of topics discussed in the Preliminary Decision Memorandum is included at Appendix I of this notice.

Commerce preliminarily determines that the following weighted-average dumping margins exist for the period August 1, 2018 through July 31, 2019:

<b>Exporter/Producer</b>	<b>Weighted-Average Dumping Margin (dollars per kilogram)</b>
Vinh Hoan Corporation/Van Duc Food Export Joint Stock Company/ Van Duc Tien Giang Food Export Company	\$0.09/Kg
Review-Specific Rate Applicable to the Following Company: <sup>15</sup>	
Nam Viet Corporation	\$0.09/Kg

#### *Disclosure and Public Comment*

Commerce intends to disclose to interested parties the calculations performed in connection with these preliminary results within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b). Case briefs or other written comments may be submitted to the Assistant Secretary for Enforcement and Compliance no later than 30 days after the date of publication of these preliminary results, unless the Secretary alters the time limit. Rebuttal briefs, limited to issues raised in case briefs, may be submitted no later than seven days after the deadline for case briefs.<sup>16</sup> Pursuant to 19 CFR 351.309(c)(2) and (d)(2), parties who submit case briefs or rebuttal briefs in this review are encouraged to submit with each argument: (1) a statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities. Case and rebuttal briefs should be filed using ACCESS.<sup>17</sup> Note that Commerce has temporarily modified certain of its requirements for serving documents containing business proprietary information.<sup>18</sup>

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, limited to issues raised in the case and rebuttal briefs, must submit a request to the Assistant Secretary

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<sup>15</sup> This rate is based on the rate calculated for Vinh Hoan.

<sup>16</sup> See 19 CFR 351.309; *see also* 19 CFR 351.303 (for general filing requirements).

<sup>17</sup> See 19 CFR 351.303.

<sup>18</sup> See *Temporary Rule Modifying AD/CVD Service Requirements Due to COVID-19*, 85 FR 41363 (July 10, 2020).

for Enforcement and Compliance, U.S. Department of Commerce, within 30 days after the date of publication of this notice. Requests should contain the party's name, address, and telephone number, the number of participants, whether any participant is a foreign national, and a list of the issues to be discussed. If a request for a hearing is made, Commerce will announce the date and time of the hearing. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

Unless otherwise extended, Commerce intends to issue the final results of this administrative review, which will include the results of our analysis of all issues raised in the case briefs, within 120 days of publication of these preliminary results in the *Federal Register*, pursuant to section 751(a)(3)(A) of the Act.

#### *Assessment Rates*

Upon issuance of the final results, Commerce will determine, and CBP shall assess, antidumping duties on all appropriate entries covered by this review.<sup>19</sup> Commerce intends to issue assessment instructions to CBP 15 days after the publication date of the final results of this review.

If Vinh Hoan's weighted average dumping margin is not zero or *de minimis* (i.e., less than 0.50 percent) in the final results of this review, Commerce will calculate importer-specific or customer-specific assessment rates for Vinh Hoan, in accordance with 19 CFR 351.212(b)(1). Specifically, Commerce intends to calculate an importer-specific per-unit assessment rate by dividing the amount of dumping for reviewed sales to the importer or customer by the total sales quantity associated with those transactions. Where either a respondent's weighted-average dumping margin is zero or *de minimis*, or an importer-specific *ad valorem* assessment rate is zero or *de minimis*, we will instruct CBP to liquidate appropriate entries without regard to antidumping duties.<sup>20</sup>

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<sup>19</sup> See 19 CFR 351.212(b).

<sup>20</sup> See 19 CFR 351.106(c)(2).

For any respondent that was not selected for individual examination in this administrative review, but which qualified for a separate rate, the assessment rate will be equal to the weighted-average dumping margin assigned to Vinh Hoan in the final results of this review.

For entries that were not reported in the U.S. sales databases submitted by Vinh Hoan, Commerce will instruct CBP to liquidate such entries at the Vietnam-wide rate.

#### *Cash Deposit Requirements*

The following cash deposit requirements will be effective upon publication of the final results of this review for all shipments of fish fillets from Vietnam entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by sections 751(a)(2)(C) of the Act: (1) for the companies listed above that have a separate rate, the cash deposit rate will be equal to the weighted-average dumping margin established in the final results of this review (except, if the rate is *de minimis*, then no cash deposit rate will be required); (2) for previously-examined Vietnamese and non-Vietnamese exporters not listed above that received a separate rate in a prior segment of this proceeding, the cash deposit rate will continue to be the existing exporter-specific cash deposit rate; (3) for all Vietnam exporters of subject merchandise that have not been found to be entitled to a separate rate, the cash deposit rate will be that for the Vietnam-wide entity (*i.e.*, \$2.39 per kilogram); and (4) for all non-Vietnamese exporters of subject merchandise that have not received their own rate, the cash deposit rate will be the rate applicable to the Vietnam exporter that supplied that non-Vietnam exporter. These cash deposit requirements, when imposed, shall remain in effect until further notice.

#### *Notification to Importers*

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during the POR. Failure to comply with this requirement could result in Commerce's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

*Notification to Interested Parties*

We are issuing and publishing the preliminary results of this review in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.213.

Dated: December 15, 2020

**Jeffrey I. Kessler,**

*Assistant Secretary*

*for Enforcement and Compliance.*



## **Appendix I**

### **List of Topics Discussed in the Preliminary Decision Memorandum**

- I. Summary
- II. Background
- III. Scope of the Order
- IV. Partial Rescission of Review
- V. Preliminary Determination of No Shipments
- VI. Discussion of the Methodology
- VII. Recommendation

## **Appendix II**

### **Companies for Which We are Rescinding the Review**

1. An Giang Agriculture and Food Import-Export Joint Stock Company (also known as Afiex, An Giang Agriculture and Foods Import-Export Joint Stock Company, An Giang Agriculture and Food Import-Export Company, An Giang Agriculture and Foods Import and Export Company, or An Giang Agriculture and Foods Import-Export Company)
2. An My Fish Joint Stock Company (aka Anmyfish or Anmyfishco)
3. An Phu Seafood Corporation (aka ASEAFOOD or An Phu Seafood Corp.)
4. Asia Commerce Fisheries Joint Stock Company (aka Acomfish JSC or Acomfish)
5. Bien Dong Hau Giang Seafood Joint Stock Company (aka Bien Dong HG or Bien Dong Hau Giang Seafood Joint Stock Co.)
6. Bien Dong Seafood Company Ltd. (aka Bien Dong, Bien Dong Seafood, Bien Dong Seafood Co., Ltd., Biendong Seafood Co., Ltd., or Biendong Seafood Limited Liability Company)
7. Binh An Seafood Joint Stock Company (aka Binh An or Binh An Seafood Joint Stock Co.)
8. Da Nang Seaproducts Import-Export Corporation (aka Da Nang or Da Nang Seaproducts Import/Export Corp.)
9. GODACO Seafood Joint Stock Company (aka GODACO, GODACO Seafood J.S.C., GODACO Seafood, or GODACO\_SEAFOOD)
10. Hiep Thanh Seafood Joint Stock Company (aka Hiep Thanh or Hiep Thanh Seafood Joint Stock Co.)
11. International Development & Investment Corporation (aka IDI or International Development and Investment Corporation)
12. Ngoc Ha Co. Ltd. Food Processing and Trading (aka Ngoc Ha or Ngoc Ha Co., Ltd. Foods Processing and Trading)
13. Saigon-Mekong Fishery Co., Ltd. (aka SAMEFICO or Saigon Mekong Fishery Co., Ltd.)
14. Sunrise Corporation
15. TG Fishery Holdings Corporation (aka TG)
16. To Chau Joint Stock Company (aka TOCHAU, TOCHAU JSC, or TOCHAU Joint Stock Company)